

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 Case No. 08-13555-scc  
4 - - - - - x  
5 In the Matter of:  
6  
7 LEHMAN BROTHERS HOLDINGS INC.,  
8  
9 Debtor.  
10 - - - - - x  
11 Case No. 17-12442-scc  
12 - - - - - x  
13 In the Matter of:  
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15 LEHMAN BROTHERS U.K. HOLDINGS (DELAWARE) INC.,  
16  
17 Debtor.  
18 - - - - - x  
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1 United States Bankruptcy Court  
2 One Bowling Green  
3 New York, NY 10004  
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5 March 8, 2018  
6 9:58 AM  
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21 B E F O R E :

22 HON SHELLEY C. CHAPMAN

23 U.S. BANKRUPTCY JUDGE  
24

25 ECRO: JONATHAN

1 HEARING re Doc #57682 Motion to Estimate RMBS Claims of  
2 SASCO 2006-S4 For Reserve Purposes filed by Paul V. Shalhoub  
3 on behalf of Lehman Brothers Holdings Inc  
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5 HEARING re Combined Hearing Approving Disclosure Statement  
6 and Confirmation of Plan  
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25 Transcribed by: Sonya Ledanski Hyde

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1 ALSO PRESENT TELEPHONICALLY:  
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5 ALEXANDER TERVOOREN  
6 ROBERT MADDEN  
7 JOSHUA ROSENTHAL  
8 CHRISTOPHER DESIDERIO  
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10 MARTHA JOHNS  
11 SAGE SIGLER  
12 JOHN WEITNAUER  
13 GRANT STEIN  
14 ALEXANDER KLIPPER  
15 KYLE BURNS  
16 LOREN HARMAN  
17 BENJAMIN HEIDLAGE  
18 URI ITKIN  
19 JULIA WINTERS  
20 SCOTT LEWIS  
21 TRACY HENDERSON  
22 ALEX FLAMM  
23 GARRETT FAIL  
24 ANNELYSE GIBBONS  
25 AMANDA DARWIN

1 P R O C E E D I N G S

2 THE COURT: Okay. Thank you for making yourself  
3 available the day after thundersnow day. Mr. Fail.

4 MR. FAIL: Thank you. Good morning, Your Honor.  
5 I'm going to turn the podium over to my colleague, Scott  
6 Bowling, who will walk us through the agenda this morning.

7 THE COURT: Okay, great.

8 MR. FAIL: Thank you.

9 MR. BOWLING: Good morning, Your Honor.

10 THE COURT: Good morning.

11 MR. BOWLING: Scott Bowling, Weil, Gotshal &  
12 Manges for the Debtors. Lehman Brothers U.K. Holdings  
13 (Delaware) Inc. and Lehman Pass-Through Securities Inc. are  
14 the Debtors in these cases. We refer to them as LUK and  
15 LPSI for simplicity's sake.

16 With me at counsel table is Mr. Garrett Fail, also  
17 Mr. Christopher Mosher and several other of his colleagues  
18 at Lehman are in the Courtroom today.

19 THE COURT: Okay.

20 MR. BOWLING: There is only one item on today's  
21 agenda.

22 THE COURT: Right.

23 MR. BOWLING: We are pleased to be requesting  
24 approval of the disclosure statement and confirmation of the  
25 plan on an uncontested basis. With the Court's permission,

1 I'd like to provide a very brief status update on these  
2 cases, and then speak to what the Debtors have filed in  
3 support of confirmation.

4 THE COURT: Please, go ahead.

5 MR. BOWLING: Thank you. As you will recall, the  
6 Debtors commenced these cases just over six months ago on  
7 August 31, 2017. These cases are part of a complex  
8 transaction among the Debtors of EHI and affiliates of  
9 Brookfield that began prior to the petition date.

10 As contemplated by that transaction as Mr. Mosher  
11 stated in his first-day declaration, the Debtors had a  
12 number of objectives for these Chapter 11 cases, including:  
13 establishing that the liabilities on their balance sheets  
14 are their only liabilities; identifying any previously  
15 unknown claims, executory contracts, or unexpired leases;  
16 providing appropriate treatment for their obligations under  
17 the plan; and preserving the value of their assets.

18 I'm pleased to report that the Debtors have  
19 accomplished all of these objections here, other than  
20 confirmation of the plan, which is for today.

21 In particular, nine claims were filed in these  
22 cases. The Debtors worked with each of the claimants to  
23 consensually resolve those claims based on their books and  
24 records. All the claims were subsequently withdrawn. No  
25 notices of executory contracts or unexpired leases were



1 filed.

2 More recently in mid-January, the Debtors filed  
3 the plan, the disclosure statement, and related documents.  
4 The plan provides for three impaired classes: Class 3,  
5 Brookfield claims; Class 5, existing Brookfield interests;  
6 and Class 6, existing Lehman interests.

7 On account of his claims, Class 3 is receiving, as  
8 applicable, 38.67 percent of the common equity of  
9 reorganized LUK, or 42.55 percent of the common equity  
10 reorganized LPSI. Class 5 is receiving 61.33 percent of  
11 the common equity or reorganized LUK, or 57.45 of percent of  
12 the common equity of reorganized LPSI. And on account of  
13 its interest, Class 6 is receiving, as applicable, 100  
14 percent of the preferred stock of reorganized LUK or  
15 reorganized LPSI, with the liquidation as set forth in the  
16 plan.

17 On January 16th, the Court granted conditional  
18 approval of the disclosure statement to permit solicitation  
19 and votes on the plan. As reflected in the affidavit of  
20 solicitation mailing of Jane Sullivan, Docket #52, Epiq  
21 transmitted solicitation packages and notices of this  
22 hearing and the objection deadline to all parties and  
23 interests in these cases.

24 All of the parties entitled to vote on the plan,  
25 specifically LBHI and affiliates of Brookfield, voted to

1 accept the plan, and is shown in the voting certification of  
2 Jane Sullivan, Docket #62.

3 The Debtors also gave notice of this hearing and  
4 the objection deadline by publication, both throughout the  
5 United States in the "Wall Street Journal" and abroad in the  
6 "Financial Times." The affidavits of publication notice are  
7 at Docket #63. Those publications were calculated to reach  
8 all parties that could potentially be interested in these  
9 Chapter 11 cases. No party has objected to confirmation of  
10 the plan or approval of the disclosure statement.

11 Now, as Your Honor is aware, the Debtors have  
12 filed a number of declarations and other documents in  
13 support of approval of the disclosure statement and  
14 confirmation of the plan. In addition to the ones already  
15 mentioned, the affidavits include the first-day declaration  
16 of Christopher Mosher, Docket #6, and the combined  
17 declaration of Christopher Mosher in support of approval of  
18 the disclosure statement and plan confirmation, Docket #46.

19 The Court admitted the first-day declaration into  
20 evidence at the first-day hearing. As for the remaining  
21 declarations, Mr. Mosher and Ms. Sullivan are here in Court  
22 this morning. At this time, I would move for the admission  
23 of the declarations into evidence.

24 THE COURT: Okay. Any objection? Anyone wish to  
25 cross-examine? Okay, very good.

1 MR. BOWLING: Thank you, Your Honor. As you are  
2 also aware and could take judicial notice of the fact the  
3 Debtors have filed a plan at Docket #43, the disclosure  
4 statement at Docket #44, the plan supplement at Docket #45,  
5 as amended at Docket #66, a memorandum of law in support of  
6 approval of the disclosure statement and confirmation of the  
7 plan at Docket #67, and the proposed form of confirmation  
8 order at Docket #68.

9 That brings us to the Debtors' request that the  
10 Court approve the disclosure statement on a final basis,  
11 confirm the plan, and waive the 14-day stay of effectiveness  
12 of the confirmation order under Bankruptcy Rule 3020(e).

13 As is set forth in the Debtors' confirmation  
14 brief, the applicable legal standards are satisfied here.  
15 The disclosure statement provided adequate information under  
16 the circumstances of these cases. Here, all of the parties  
17 that were entitled to vote on the plan understood the  
18 transactions contemplated by the plan and have consented to  
19 the approval of the disclosure statement.

20 The plan satisfies the requirement of Section  
21 1129(a) of the Bankruptcy Code for all the reasons set forth  
22 in the Debtors' confirmation brief. I'm happy to report  
23 that no party has objected to either. As a result, the  
24 Debtors believe that entry of the Debtors' confirmation  
25 order is appropriate and warranted.

1 With that, I'm happy to answer any questions Your  
2 Honor might have. Otherwise, the Debtors request that the  
3 Court approve the disclosure statement and confirm the plan.

4 THE COURT: All right. Does anyone else wish to  
5 be heard? Mr. Marcus, no?

6 MR. MARCUS: Nothing, Your Honor.

7 THE COURT: Right.

8 MR. MARCUS: I think Mr. Bowling said it well.

9 THE COURT: All right. I think he said it well as  
10 well. All right. Based on the entirety of the record  
11 before me, including the very well-prepared pleadings that  
12 you've presented, I'm pleased to confirm -- pleased to  
13 approve the disclosure on a final basis and confirm the  
14 plan.

15 Have there been any changes to the form of order  
16 from the form that we have received?

17 MR. BOWLING: No, Your Honor.

18 THE COURT: Okay, very good. So once we get  
19 through our long day today, we will get those entered on the  
20 docket.

21 MR. BOWLING: Thank you very much, Your Honor.

22 THE COURT: All right? Thank you for the very  
23 nice presentation. All right. Thank you, Mr. Fail.

24 MR. FAIL: Thank you very much, Your Honor. May  
25 we be excused?

1 THE COURT: Yes, you may.

2 MR. FAIL: Thank you.

3 MR. BOWLING: Thank you very much, Your Honor.

4 (Recess)

5 THE COURT: Brief hearing on the reserve motion,  
6 and then we're going to turn to the decision on the  
7 estimation proceeding.

8 We're going to switch out the tape after this  
9 concludes, and then our real-time reporter can begin, and we  
10 will have a separate transcript for the main hearing.

11 But just by way of preview, I will tell you it's  
12 going to be a very long day, so I'd like to keep this part  
13 as brief as possible. All right?

14 MR. COSENZA: Sure. Should I approach, Your  
15 Honor?

16 THE COURT: Yeah. As you can see, we took back  
17 our Courtroom, got rid of all of your technology and all of  
18 your wires.

19 MR. COSENZA: Good morning, Your Honor.

20 THE COURT: Good morning, Mr. Cosenza.

21 MR. COSENZA: Todd Cosenza from Willkie Farr &  
22 Gallagher for the plan administrator, Lehman Brothers  
23 Holdings, Inc.

24 Your Honor, we apologize for burdening the Court  
25 with what we thought as a dispute that should have been

1 resolved consensually.

2 Just, as a matter of background, you know, we  
3 filed this motion because we wanted the decision that Your  
4 Honor will issue -- rule on later today to sort of then be  
5 the turnkey to releasing the reserve that's set up for the  
6 remainder of these claims.

7 And obviously our motion, we filed this motion on  
8 February 19th. It relates to one opt-out trust, and we  
9 sought to see the reserve for that opt-out trust, which is  
10 the SASCO 2006-S4 Trust, at the greater of \$2.38 billion.  
11 Or if Your Honor were to determine that the -- based on the  
12 estimation proceeding, that the Trustees are entitled to a  
13 higher claim, such amount as this Court determines for a  
14 total value of the claims at the estimation proceeding.

15 The Trustee has objected. They claim that they  
16 should -- that somehow this trust is very different from all  
17 the other trusts that have been put forward in the  
18 estimation proceeding, as is evidenced by the submissions of  
19 the Trustee that the Trustee has put forward: it's the same  
20 evidence; it's the same experts; it's the same information  
21 that was part of the estimation proceeding.

22 We believe it's only reasonable, frankly, Your  
23 Honor, to even wait until we hear from Your Honor's ruling  
24 on the estimation proceeding --

25 THE COURT: Oh, yes, you are going to wait. I am

1 not going to --

2 MR. COSENZA: -- before --

3 THE COURT: -- listen to you now and tell you, as  
4 you know, I've read everything that was submitted on this,  
5 and I have no intention of giving you a decision on the  
6 reserve motion until the other side of the ruling on the  
7 estimation.

8 MR. COSENZA: And, Your Honor, from our  
9 perspective, that's perfectly fine. Just one other point  
10 the Trustee's, based on their submission, they would seek a  
11 claim reserve for this claim of 191.7 --

12 THE COURT: Yes.

13 MR. COSENZA: -- which is full value of every loan  
14 to full purchase price, and we think that's really out of  
15 line with what we saw. But, Your Honor, we're more than  
16 happy to take this up after and that's sufficient for our  
17 current purposes.

18 THE COURT: Okay. I may have some more questions  
19 later.

20 MR. COSENZA: Sure.

21 THE COURT: But for now, that's fine.

22 MR. COSENZA: Thank you.

23 THE COURT: All right, thank you, Mr. Cosenza.

24 Mr. Shuster.

25 MR. SHUSTER: Thank you, Your Honor. I'll be

1 brief. Michael Shuster, Your Honor.

2 THE COURT: Just let me say, with no small amount  
3 of irony, that it was our fault that there was a snowstorm  
4 yesterday. It was just the final --

5 MR. SHUSTER: Yes, no, it's in keeping with our --

6 THE COURT: It was in keeping with the tradition  
7 that we've developed in our case --

8 MR. SHUSTER: Of things going wrong, yes, and I'll  
9 agree.

10 THE COURT: -- of things happening.

11 MR. SHUSTER: Yeah, I hope it's not a karmic  
12 thing. So I'll be very brief. Mr. Cosenza say that the  
13 Trustees believe this trust is very different. It is very  
14 different. It opted out; it opted out of the settlement.  
15 It has a claim; it has the right to seek to prove its claim.

16 The evidence that the plan administrator adduced  
17 in support of its position in the estimation hearing. To  
18 the extent it relates to the views of institutional  
19 investors or other settlements simply don't apply here  
20 because this isn't a settlement. There's no agreed  
21 estimation proceeding; there's no agreement that otherwise  
22 inadmissible evidence would come in.

23 The value of the claim is \$191 million. The claim  
24 consists of claims for breaches of reps and warranties  
25 relating to income debt, employment occupancy. There's also



1 a substantial missing document claim that, unlike the ones  
2 that were the -- some of the ones that were the subject of  
3 the estimation hearing, relate almost entirely to Aurora  
4 loan files that are deemed completed, and there are  
5 vanishingly few on-hold loans.

6 So for all of those reasons and others that we  
7 stated in our papers, we think that -- I'll just quickly on  
8 prejudice. I know that other creditors want to get paid,  
9 but if a reserve is set at a certain level and the claim  
10 comes in below that level, they will get paid their  
11 proportionate share; they'll just have to wait a while.

12 But if the reserve here is set too low, then  
13 there's a risk of actual prejudice where this creditor would  
14 not get paid its proportionate share that we think is  
15 unnecessary.

16 Thank you, Your Honor.

17 THE COURT: Okay. Thank you, Mr. Shuster. Okay.  
18 As I said, we can take this up further when we get on the  
19 other side of the opinion.

20 So let's now conclude this hearing for now.  
21 Jonathan, if you would put in a new tape.

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.

Sonya

Ledanski Hyde

Digitally signed by Sonya Ledanski  
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Date: March 12, 2018